

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Richmond Division**

ERICK JAVIER SANTOS BEY,

Plaintiff,

v.

Civil Action No. **3:23CV99**

COMMONWEALTH OF VIRGINIA, *et al.*,

Defendants.

MEMORANDUM OPINION

Plaintiff, a Virginia inmate, submitted this action and requested leave to proceed *in forma pauperis*. The pertinent statute provides:

In no event shall a prisoner bring a civil action [*in forma pauperis*] if the prisoner has, on 3 or more prior occasions, while incarcerated or detained in any facility, brought an action or appeal in a court of the United States that was dismissed on the grounds that it is frivolous, malicious, or fails to state a claim upon which relief may be granted, unless the prisoner is under imminent danger of serious physical injury.

28 U.S.C. § 1915(g). Plaintiff has at least three other actions or appeals that have been dismissed as frivolous or for failure to state a claim. *See, e.g., Santos v. United States of Am. Inc., Wilmington, Delaware*, No. TDC–21–0807, 2021 WL 8315429, at *2 (D. Md. Apr. 26, 2021); *Santos Bey v. Queen Anne Cnty. Dist. Ct.*, No. CCB–19–3647, 2020 WL 1064902, at *2 (D. Md. Mar. 4, 2020); *Santos Bey v. Soc. Sec. Admin.*, No. GJH–18–3993, 2019 WL 9094420, at *2 (D. Md. Jan. 9, 2019), *aff'd as modified sub nom. Bey v. Soc. Sec. Admin.*, 771 F. App'x 233 (4th Cir. 2019). Plaintiff's current complaint does not suggest that he is in imminent danger of serious physical harm. Accordingly, Plaintiff's request to proceed *in forma pauperis* is DENIED. The action will be DISMISSED WITHOUT PREJUDICE. If Plaintiff wishes to proceed with this action, he may

submit a new complaint with the full \$402 filing fee. The Court will process such a complaint as a new civil action.

An appropriate Final Order shall accompany this Memorandum Opinion.

It is so ORDERED.

Date: 23 February 2023
Richmond, Virginia

/s/ JSJ
John A. Gibney, Jr.
Senior United States District Judge